

Mark A. Nickel (14082)
David R. Garner (16054)
GORDON REES SCULLY MANSUKHANI, LLP
2 Main, Suite 1600
Salt Lake City, UT 84101
Telephone: (801) 204-9990
Facsimile: (385) 282-7590
dgarner@grsm.com
mnickel@grsm.com
Attorneys for Defendant

Brian Middlebrook (Pro Hac Vice forthcoming)
Alexandra Sandler (Pro Hac Vice forthcoming)
GORDON REES SCULLY MANSUKHANI, LLP
One Battery Park Plaza, 28th Floor
New York, NY 10004
Telephone: (212) 269-5500
bmiddlebrook@grsm.com
asandler@grsm.com

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH**

Kristin Pilkington, individually and on behalf of all others similarly situated,

Plaintiff,

vs.

Gorsuch, LTD.,

Defendant.

DECLARATION OF ALEXANDRA SANDLER

Case No. 2:24-cv-00434-DBP

Judge Robert J. Shelby
Magistrate Judge Dustin B. Pead

Alexandra Sandler, of full age, hereby submits the following Declaration pursuant to 28 U.S.C. § 1746.

1. I am an Associate of the law firm of Gordon Rees Scully Mansukhani, LLP. I am responsible for the defense of this action, and possess personal knowledge regarding the within matter. I make this Declaration in support of Defendant Gorsuch, Ltd's ("Defendant") motion to dismiss Plaintiff's Complaint

for lack of subject matter jurisdiction pursuant to Fed. R. Civ. P. 12(b)(1); or, in the alternative, to transfer venue to the U.S. District Court of Colorado.

2. Defendant is a Colorado corporation with its headquarters and principal place of business in Colorado. It is a retail company that offers ski and mountain apparel, ski equipment, regular apparel, footwear, accessories, and home furnishings in stores and on its website at www.gorsuch.com (the “Website”).

3. Use of the Website, including making purchases via the Website, is governed by Defendant’s Terms of Use. The full text of the Terms of Use is posted on <https://www.gorsuch.com/policies/terms-of-service>, and it can be accessed by clicking on a hyperlink titled “Terms of Use,” which is located on the bottom left corner of each web page contained on the Website. The hyperlink is black, in contrast with light yellow background of each web page.

4. Defendant’s Terms of Use, which was in effect when Plaintiff made a purchase from Defendant’s Website, includes a governing law clause, a forum selection clause, and a class action waiver. A true and correct copy of the governing law clause, forum selection clause, and class action waiver is attached hereto as **Exhibit A**.

5. In order to place an order on Defendant’s Website, consumers are required to go through a multi-step checkout process, all while navigating through three different web pages. On the first page, consumers are required to click a “Continue to Shipping” button, followed by a “Continue to Payment” button, followed by a “Pay Now” button. Gorsuch’s Terms of Use is accessible through a hyperlink located below each button. The hyperlink is underlined. By clicking on the Terms of Use hyperlink, a pop-up appears displaying the Terms of Use, allowing consumers to review the terms without being directed to another page. A true and correct copy of the multi-step checkout flow is attached hereto as **Exhibit B**.

I declare under penalty of perjury that the foregoing is true and correct.

GORDON REES SCULLY MANSUKHANI, LLP

By: /s/Alexandra Sandler
Alexandra Sandler, Esq.

Dated: October 4, 2024